THE HON'BLE SRI JUSTICE T.CH.SURYA RAO

–

AND

–

THE HON'BLE SRI JUSTICE G.CHANDRAIAH

–

–

WRIT PETITION NO.5779 OF 2002

(Per TCSR,J)

Dated 12th June, 2006.

Between:

Smt.Shankaramma w/o Late Balakrishna Reddy,

Aged 83 years, r/o Aliabad, Hyderabad. … Petitioner

And

The Special Court under A.P. Land Grabbing

(Prohibition) Act, 1982, BRKR Bhavan, Tank Bund,

Hyderabad and others. … Respondents

–

–

–

–

–

–

–

–

–

–

–

–

–

–

–

–

–

–

–

–

–

–

–

–

–

–

–

–

–

–

–

–

–

–

–

–

–

–

THE HON'BLE SRI JUSTICE T.CH.SURYA RAO

–

AND

-

THE HON'BLE SRI JUSTICE G.CHANDRAIAH

-

-

WRIT PETITION NO.5779 OF 2002

-

-

ORDER: (Per TCSR,J)

This writ petition will not detain us any more since the point that is germane for determination lies in a narrow compass.

The State is the applicant which filed the petition before the Special Court on the premise that the land in dispute which was morefully described in the schedule appended thereto was a government poramboke land and the sole respondent occupied the said land unlawfully, illegally and thereby committed the act of land grabbing.

The respondent *inter alia* in the counter filed had taken the plea that she had been in possession and enjoyment of the land for the last more than four decades having occupied the same, reclaimed and brought it for cultivation by expending huge amounts and that she perfected her title by prescription by means of adverse possession.

The Special Court oblivious of the fact that the respondent had taken up such a plea of adverse possession was of erroneous view that the respondent had not pleaded any plea of adverse possession. However, the Special Court was of categorical view that the land in dispute was the government poramboke land. It is, therefore, fairly a case of the initial burden that is cast upon the applicant/State has been discharged in showing before the Special Court *prima facie* that the State is owner of the land in question. The plea of the respondent that she perfected her title by adverse possession for having been in possession of the land in dispute for more than 40 years cannot be adverted to, considered and adjudicated upon by the Special Court since the Special Court lacks the necessary jurisdiction to adjudicate

such a question which squarely falls within the domain of the Civil Court. In the absence of that plea, there is no other plea for the respondent to validly resist the application filed by the State. Therefore, it is a case where, having regard to the finding of the Special Court that the State has title, it is shown before us satisfactorily that the respondent has committed an act of land grabbing. In that view of the matter, the application filed by the State is bound to be allowed.

Notwithstanding the same, still it is open to the respondent by instituting a properly constituted suit before a competent civil Court for declaration of her title by prescription by means of adverse possession and can seek an injunction restraining the State from interfering with her possession permanently. The findings given by the Special Court *inter alia* in its Judgment will not come in the way of the civil Court in adjudicating upon that suit for declaration in the event it is filed by the respondent since such an issue falls within the exclusive domain of the civil Court and excludes the jurisdiction of the Special Court. Possession is obviously with the respondent even as per the own showing of the State.

For the above reasons, the Writ Petition must fail and is dismissed in the light of the observations made *inter alia* in the order supra. Under the circumstances, there is no separate order as to costs.

_____

(T.CH.SURYA RAO,J)

_____

(G.CHANDRAIAH,J)

Dated 12th June, 2006.

VGSR